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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,104	09/09/2003	Alan Qing Zhu	33380.007C	4331

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EXAMINER
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GARCIA, ERNESTO

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/659,104

Applicant(s)

ZHU, ALAN QING

Examiner

Ernesto Garcia

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 4-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election*

Applicant's election of claims 1-3 (species I, Figures 7, 8, 9a, 9b, 10a and 12) in the reply filed on February 25, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 4-9 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 2/25/05.

### *Drawings*

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "16" has been used to designate both pickets with pointed ends (Figs. 1 and 2) and pickets without pointed ends (Figs. 3, 6b,6c).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "10" has been used to designate a fence with one

configuration (Figs. 1), a fence of a second configuration (Fig. 6e), and a fence with a third configuration (Fig. 6(g)).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

Applicant is reminded of the proper format for an abstract of the disclosure.

The abstract should be limited within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited.

### ***Claim Objections***

Claim 1 is objected to because of the following informalities:

Regarding claim 1, "corresponding" in line 7 should be --the--, "by" in line 10 should be --to--, "corresponding" in line 12 should be deleted, "a respective" in line 16 should be deleted, and "as" in line 28 should be deleted. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larsen, 6,824,123, in view of Helterbrand et al., 3,942,763, and Lucas, 998,582.

Regarding claim 1, Larsen discloses, in Figures 1E, 4 and 7, a modular picket fence comprising at least two spaced apart vertical posts (col. 6, lines 14-16), at least

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two spaced apart horizontal tubular rails **24**, , spaced apart vertical tubular pickets **22**, and locking means **49** for locking the pickets **22** to the rails **24**. Each of the rails **24** has spaced apart apertures **46**. The apertures **46** on the rails **24** are aligned. The pickets **22** are secured in mutually parallel relationship to the rails **24**. Each of the pickets **22** has two opposite end portions **26** respectively inserted into the apertures **46**. Each of the end portions **26** has at least two oppositely disposed and aligned transverse apertures **33** (col. 7, lines 65-67).

The locking means **49** is for respectively locking each of the end portions **26** of each of the pickets **22** to the rails **24**. The locking means **49** comprises a one-piece generally U-shaped spring clip having a bent middle portion **A9** and two opposite end portions **A10** each having an outwardly protruding stopper **51**. Each stopper **51** has a right-angle side **A13**. The spring clip is inserted into each of the end portions **26** of the pickets **22** with each stopper **51** respectively protruding through the two transverse apertures **33** of the pickets **22**. Each of the end portions **26** of each of the pickets **22** is respectively inserted into one of the apertures **46** of the rails **24**. Each stopper **51** is respectively inserted in the end portions **26** of the pickets **22** respectively extending through the transverse apertures **33** of each of the end portions **26** of each of the pickets **22**, and also extending into and respectively engaging inside the rails **24** such that vertical movement of each of the pickets **22**, relative to the rails **24**, is prevented. However, Larsen fails to disclose attaching means for attaching the rails **24** to the posts and each stopper **51** having a ramp side.

Helterbrand et al. teach, in Figure 3, a modular picket fence including attaching means 30,40 for attaching rails 4 to posts 12. Therefore, as taught by Helterbrand et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to include attaching means for attaching the rail to the posts.

Lucas teaches in Figure 3, each stopper 8 having a ramp side 11 for an automatic action of the stoppers in passing a rim of an opening (page 2, lines 54-59). Therefore, as taught by Lucas, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a ramp side on each stopper **51** to automate an action of each stopper **51** in passing a rim of the apertures **46**.

Regarding claim 3, as modified by Helterbrand et al., the attaching means includes bolts 30 and nuts (unreferenced in Helterbrand et al.).

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Larsen, 6,824,123, in view of Helterbrand et al., 3,942,763, and Lucas, 998,582, as applied to claims 1 and 3 above, and further in view of Gibbs, 5,443,244.

Regarding claim 2, Larsen, as modified above, fails to disclose the picket fence further including a sealing cap. Gibbs teaches, in Fig. 3, a picket fence further including a sealing cap 41. Gibbs does not explicitly state the reason for including the sealing cap; however, the sealing cap helps prevent debris or water from entering the rail, or

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prevents lateral movement of the picket in respect to the rails. Therefore, as taught by Gibbs, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a sealing cap to prevent water from entering the rail, or prevent lateral movement of the pickets in respect to the rails.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 703-308-8606. The examiner can normally be reached from 9:30-6:00. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.



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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



E.G.

March 16, 2005

Attachments: one marked-up copy of Larsen, et al., 6,824,123



DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

Larsen, et al., 6,824,123

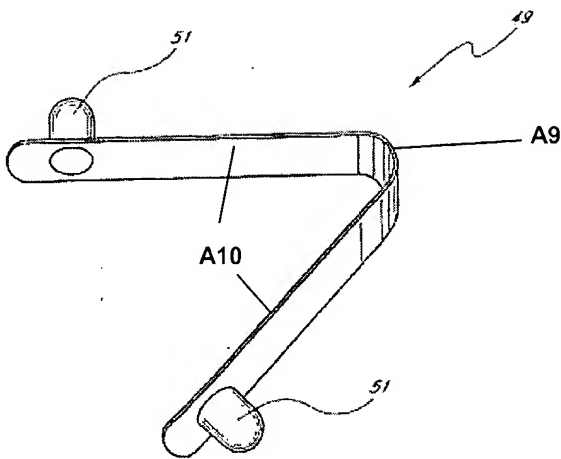


FIG. 4

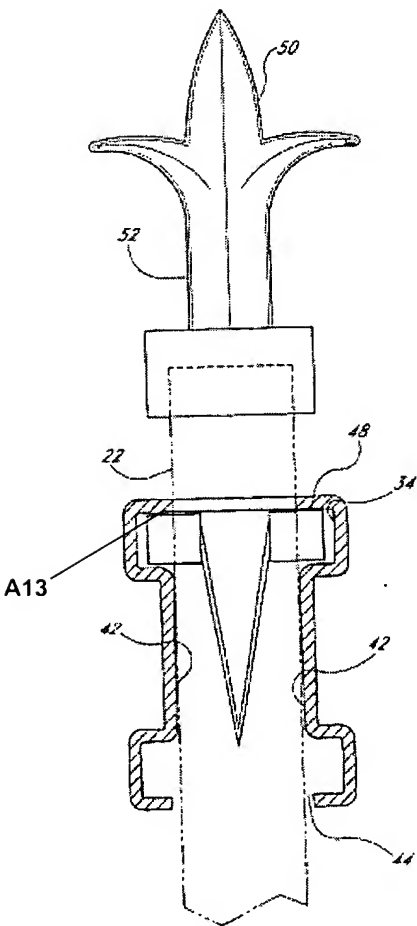


FIG. 6B